

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Baell et al.

Serial No.: 09/995,277

Filed: November 26, 2001

Atty. File No.: 4102-5-1

For: "Fc RECEPTOR MODULATORS
AND USES THEREOF"

Assistant Commissioner for Patents
Washington, D.C. 20231



Group Art Unit: 1614

Examiner: P. Spivack

RESPONSE TO SPECIES ELECTION

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Dear Sir:

This Response is filed in reply to the Office Action mailed 8 January 2002. This response is filed within the one-month shortened statutory period. Applicants therefore believe this response is timely filed and no fees are due. In the event any fees are due, please debit Deposit Account No. 19-1970.

Election/Restriction:

The Examiner has imposed a species election under 35 U.S.C. § 121.

In response to the outstanding Office Action, Applicants hereby elect with traverse the species claimed in New Claim 116. This species reads on Claims 108-113, and 116.

With regard to the Examiner's species election requirement, Applicants note that such a requirement is primarily, if not solely, intended to facilitate a search by the Examiner. Applicants note that the Examiner is obligated to examine the generic claims and submits that the scope of the claims of the present invention is not limited to the elected species.

Applicants traverse the species election of a single compound. The Patent Office may require restriction if two or more "independent and distinct" inventions are claimed in one application. However, "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or

independent inventions." M.P.E.P. Section 803. Applicants submit that the compounds listed in the pending claims represent a reasonable number of species which are biologically related by their ability to modulate binding of immunoglobulins to Fc receptors. Therefore, Applicants submit that the subject matter of these species is sufficiently small and is so closely related as to be capable of examination together. The species election in this case only serves to increase the prosecution expense to the Applicants and to the Patent and Trademark Office. Applicants respectfully request that the Examiner withdraw the species election requirement.

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

SHERIDAN ROSS P.C.

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Date: Feb 19, 2007 ✓